

Discretionary Penalty Policy

General

- 1.1. When the Jury has discretion to decide the appropriate penalty for a breach, the penalties may range from zero points through to DNE. In determining the penalty, the Jury will be guided by this document.
- 1.2. Discretionary Penalties are not just a list of standard penalties. The penalty should be adjusted as justified, while maintaining consistency. The overall concept is to establish a base penalty for a particular breach and then increase or decrease the penalty depending on the circumstances.
- 1.3. Suggested base penalties are listed in the attached two tables. These suggest the base band for common specific breaches and the answers to some general questions to be used when there is no specific breach listed. When a range of penalties is suggested for a specific breach, use the general questions to determine the band for the specific breach.
- 1.4. Penalties are divided into 4 bands with the mid-point being the normal base penalty:
 - (a) Band 1 – 0 - 10% (mid-point 5%)
 - (b) Band 2 – 10 - 30% (mid-point 20%)
 - (c) Band 3 – 30 - 70% (mid-point 50%)
 - (d) Band 4 – DSQ / DNE (starting-point DSQ)
- 1.5. Start by using the tables below to find which band applies. Consider the 'base penalty' to be at the mid-point of the band. Then determine if there is cause to increase or decrease the penalty within the band or to change the band.
- 1.6. A positive answer to these questions would lead to reducing the penalty.
 - (a) Was the breach accidental?
 - (b) Was there a good reason or justification for the breach?
 - (c) Was the breach reported by the competitor?
 - (d) Did anyone who was not part of the boat's crew or support team contribute to the breach?
- 1.7. A positive answer to these questions would lead to increasing the penalty.
 - (a) Was the breach repeated?
 - (b) Was the breach deliberate as opposed to a misjudgement or carelessness?
 - (c) Was there any attempt to conceal the breach?
 - (d) Was anybody inconvenienced?
- 1.8. The Jury may use other questions to determine if a penalty should be increased or decreased.
- 1.9. To calculate and apply the penalty:
 - (a) The discretionary penalty may not make a boat's score worse than retirement or disqualification.
 - (b) Percentage penalties are calculated to the nearest tenth of a point, (0.05 to be rounded upward).
 - (c) When the breach affected racing performance, it should be applied to all races sailed that day, provided any protest is valid for all races.
 - (d) When the breach does not affect racing performance and especially when it is largely administrative, the penalty should be applied to the race sailed nearest in time to that of the incident as specified in RRS 64.1.

- 1.10. When writing a decision applying a discretionary penalty, include the following statements:
- (a) Using the DP Guide a starting penalty of xx% was decided
 - (b) The penalty was decreased because.....or There were no circumstances to justify decreasing the penalty.
 - (c) The penalty was increased because..... or There were no circumstances to justify increasing the penalty.
 - (d) The penalty applied is xx% applied to [all races of the day] or to [race numbers yy].

2. Base Penalty Bands for Discretionary Penalties

- 2.1. Generally, the base penalty will be the mid-point of the band.
- 2.2. If the specific breach is not listed or a range of bands is suggested, go to second table.
- 2.3. Be sure that a discretionary penalty is authorised for the specific breach.

SI	DESCRIPTION	BAND
8.1	RACING AREA: Failing to avoid the racing area not interfering with a racing boat Failing to avoid the racing area affecting a racing boat	1 4
15.3	RETIREMENT. Failing to report retirement (failing to notify, not filling the form, filling the form later than the protest time limit without good reason)	1
17	REPLACEMENT OF EQUIPMENT: Failing to comply – good reason Failing to comply – no good reason or justification.	1 3
18	EQUIPMENT CHANGES AND MEASUREMENT CHECKS: Failing to comply – good reason. Failing to comply – no good reason or justification.	1 3
23	SUPPORT BOATS: see -section D, at https://www.sailing.org/tools/documents/JuryPolicies2021July-[274051].pdf <i>Under RRS 64.5.a) (DP to a support person)</i> Level <i>Under RRS 64.5(b) (DP to a boat)</i> Band	1-4 1-4
RRS 47 SI 21	TRASH DISPOSAL Careless Deliberate	1 4
24	SAFETY REGULATIONS	
24.1	Failing to comply – good reason. Failing to comply – no good reason or justification.	1 3
24.2 – 24.4	Failing to comply	4

4. General Questions

4.1. To be used when there is no specific breach in the table above, or when the table above suggests more than one band.

Could the breach compromise safety?	
No	1
Possibly but not certainly	2-3
Yes	4
Can the boat prove it has not obtained a competitive advantage?	
Yes, no advantage is possible.	1
No, possible advantage but not certain.	2-3
No, certain advantage	4
Could the breach bring the sport into disrepute? <i>(Note: if the Jury considers that the sport may have been brought into disrepute, it should consider action under RRS 69, especially if no other rule is available.)</i>	
No	1
Possibly but not certainly	2-3
Yes	4
Could the breach result in damage or injury?	
No	1
Possibly but not certainly	2-3
Yes	4